

# MEMO ENDORSED

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July 10, 2013

Honorable Ronnie Abrams  
United States District Court  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

*Re: Sauerwald v. Metropolitan Transportation Authority, et al.,  
13 Civ. 4226 (RA)(JLC)*

Your Honor:

I am counsel for Plaintiff in the above-captioned case, and write to seek an Order compelling counsel for Defendants to identify all of the presently unnamed MTA Police Officers who were involved in the incidents described in the Complaint by no later than the end of this month (by July 31, 2013), so that they can be amended into the Complaint immediately thereafter. The underlying incident occurred on September 1, 2010, and the 3 year statute of limitations on Plaintiffs' § 1983 claims runs on or about September 1, 2013.

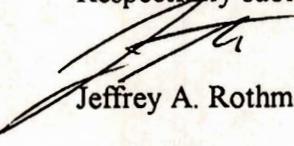
When I served the Summons and Complaint on all the presently identified defendants at the MTA headquarters on June 20, 2013, I accompanied service with a letter requesting this information (see, Ex. A hereto), and annexed photographs to the Complaint of some of the officers involved in the incident, to assist opposing counsel in making the necessary identifications (which should, in any event, be able to be accomplished easily in any event based on police records from the incident). No one responded to the letter, but when the case was assigned by the MTA General Counsel's office to the Bee Ready firm recently, I contacted them on July 1, 2013 and spoke with a secretary, who told me the case had not yet been assigned to a particular attorney. I was then called by a secretary there on the following day, July 2, 2013, who asked me for my consent to an extension to answer. I said that I would like to speak to the assigned attorney, who I was informed was an Angelo M. Bianco, Esq., as I needed to discuss with him the issue of quickly identifying the "Michael Moe", "Richard Roe", and "John Does" Defendants whose identities are presently unknown, in time to amend the complaint to add them before the statute of limitations runs.

I was forwarded to Mr. Bianco's voice mail at the Bee Ready firm, and left him a voice message on July 2, 2013, asking him to call me back about these identification issues. He never called me or contacted me in any way. Today he entered his appearance on behalf of, and filed an Answer<sup>1</sup> on behalf of, all of the Defendants, including the "Michael Moe", "Richard Roe", and "John Does" Defendants.

Given the time constraints, and the fact that my previous letter and voice message were ignored entirely, I respectfully request an Order compelling counsel for Defendants to identify all of the presently unnamed MTA Police Officers who were involved in the incidents described in the Complaint by no later than the end of this month, so that they can be amended into the Complaint immediately thereafter.

Thank you for your consideration in this matter.

Respectfully submitted,



Jeffrey A. Rothman

Enc. (Exhibit A)

cc: Angelo M. Bianco, Esq. (by email)

Application granted. Counsel for Defendants shall, no later than July 31, 2013, identify for Plaintiff all of the presently unnamed MTA police officers who were involved in the incidents described in the Complaint. So ordered.



RL  
USDJ  
7/17/13

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<sup>1</sup> The response to almost all of the factual allegations in the Complaint are "Deny knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph ...."

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M.T.A. General Counsel  
Date: \_\_\_\_\_  
Mail  Received   
Time: \_\_\_\_\_  
Personal

June 20, 2013

M.T.A. General Counsel  
347 Madison Avenue  
New York, NY 10017

*Re:* Sauerwald v. Metropolitan Transportation Authority, et al.,  
13 Civ. 4226 (RA)(JLC)

Dear Sir / Madam:

Enclosed please find a Summons and a copy of the Complaint for each of the following Defendants:

- Metropolitan Transportation Authority (MTA);
- Metropolitan Transportation Authority Police Department (MTAPD);
- MTA Police Officer Thomas Sullivan, Shield No. 2468;
- MTA Police Officer "FNU" Prego (First Name Unknown);
- MTA Police Lieutenant Chris Rockett

Attached to each Complaint are 17 color photographs depicting other individual MTA officer defendants, that I ask you to identify promptly by name and shield number, so they can be amended into the Complaint and served<sup>1</sup>. At this point they are designated in the Complaint as MTA Police Officer "Michael Moe"; MTA Police Officer "Richard Roe"; and MTA Police Officers "John Does" 1-10. *Please identify all officers who were involved in the incidents described in the complaint.*

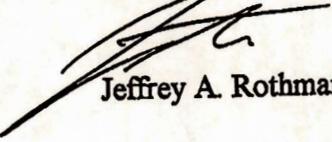
To assist you, I can inform you that an attorney from your office named Mary Fisher Bernet was involved in addressing a subpoena duces tecum that was issued during the criminal prosecution of the Plaintiff stemming from the incidents described in the complaint.

<sup>1</sup> Please also provide the first name and shield number of Officer Prego.

Ex. A

Please feel free to call me with any questions or concerns. Thank you for your consideration in this matter.

Sincerely,

  
Jeffrey A. Rothman

encs.